WP(C) 6192/2006
BEFORE
THE HON'BLE MR JUSTICE B K SHARMA

Heard the learned counsel for the petitioner as well as Mr. Goswami, learned State counsel.

The grievance raised in this application is in respect of alleged illegal action on the part of the respondents No. 4 and 6 in taking steps towards evicting the petitioner from her leased hold land with dwelling house. The description of the land has been indicated in paragraph-2 of the writ petition. According to the petitioner she along with her family members is in occupation of the land since 1975. She has her Assam type house over the plot of land which according to the petitioner has been given house number (House No. 120) by the competent authority.

According to the petitioner the officials of the respondents No. 4 and 6 came to the petitioners dwelling house and took measurement thereof. They also asked the petitioner to vacate the dwelling house over the land. According to the petitioner, she was threatened that in case of her failing to vacate the land and the house she will be vacated forcefully.

The respondents in their counter affidavit had contended that the Deed of leased agreement which has been annexed as Annexure-1 to the writ petition is not a registered one and the petitioner cannot get any benefit from such leased agreement. It is the further contention of the respondents that in the State of Meghalaya there cannot be any transfer of land without the prior permission of the competent authority. However, the real reason assigned for taking the action is given in paragraph-3 of the counter affidavit which is quoted below:

3. That with regard to the statements made in paragraphs 4 to 10 of the petition, the deponent begs to state that on 08.12.2006, a team consisting of officials from the Collector's Office, Police Department along with the Officials of Meghalaya Surveys were deputed to conduct survey over the land at Khanapara, Ri Bhoi District, purportedly belonging to Shri P. Lyngdoh. This survey was conducted for the purpose of proposed acquisition of land for establishment of Khanapara Police Station which is required to be shifted from the present position due to the on going construction of the 4 laning N.H. 37. The survey team while conducting the survey being accompanied by the Headman of the respective village along with the landowner's representative etc. found that some buildings were to be affected for the proposed acquisition. The team while taking measurement to find out the actual area of land which is required to be taken for acquisition had to take measurement of the buildings within the area so that the valuation can be made in the probable cost estimate for the entire acquisition. The said measurement was only a preliminary step which was taken by maintaining all the requisite provisions of the Land Acquisition Act, 1894 as amended from time to time. In this particular operation of acquisition of land, notices will be issued under the provisions of Section-4 and objections will be invited thereafter under Section 5(A) of the said act.

From the stand of the respondents it appears that some measurements have been taken as preliminary measure towards acquiring the land for the purpose of construction of Police Station which according to the respondents is required to be shifted from the present place due to ongoing construction of the 4 lane road. However, the respondents have also stated that the steps taken is only preliminary steps and any action taken in the matter would be by following the provision of the Land Acquisition Act, 1984 and notice etc. shall be issued in due course.

Learned counsel for the petitioner submits that the petitioner has obtained no objection certificate from the Smt. J. Syiemlieh.

In view of the above, the writ petition is disposed of providing that the petitioner shall not be evicted from the land and the dwelling house without following due procedure as laid down in law.

JUDGE
Kborah